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Attorneys for Plaintiffs
LAUREN RIES and SERENA ALGOZER

(Additional counsel listed on signature page)

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

LAUREN RIES and SERENA ALGOZER,
individuals on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

HORNELL BREWING COMPANY, INC., et
al.,

Defendants.

CASE NO. CV 10-01139 JF

**STIPULATION AND [PROPOSED]
ORDER REGARDING EARLY NEUTRAL
EVALUATION SESSION**

TO THE COURT, AND ALL PARTIES AND THEIR ATTORNEYS OF RECORD:
 THIS STIPULATION is entered into by and between plaintiffs, Lauren Ries and Serena Algozer (“Plaintiffs”), and defendants Hornell Brewing Company, Inc. d/b/a Ferolito Vultaggio & Sons, Inc. and Beverage Marketing USA, Inc. (“Defendants”), collectively referred to herein as the “Parties,” by and through their attorneys of record and pursuant to Civil Local Rule 7-12 and ADR Local Rule 5-5.

WHEREAS, pursuant to an Order entered on July 23, 2010 (DE 47), this Court stayed the within action for a period of six months from July 23, 2010, pending referral of the matter to the United States Food and Drug Administration (“FDA”).

WHEREAS, in its August 4, 2010 Notice of Appointment of Evaluator (DE-49), the Court appointed Sarah A. Good, Esq. of the firm Howard, Rich, Nemerovski, Canady, Falk & Rabkin as Evaluator (“Evaluator”) for this case.

WHEREAS, by letter dated August 9, 2010, the Evaluator, in accordance with ADR L.R. 5-7, tentatively scheduled an initial telephone conference with all counsel for August 23, 2010 to address, *inter alia*, scheduling an Early Neutral Evaluation (“ENE”).

WHEREAS, the Parties hereto have agreed that the scheduling of the ENE should be held in abeyance pending the stay imposed by this Court; and

NOW, THEREFORE, the Parties jointly request and HEREBY STIPULATE that the scheduling of the ENE session should be held in abeyance pending the stay of this action.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD:

DATED: August 19, 2010 SEDGWICK, DETERT, MORAN & ARNOLD LLP

By: /s/ Andrew J. King

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By: /s/ Robert P. Donovan

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BEVERAGE MARKETING USA, INC.

DATED: August 19, 2010

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By: /s/ Joseph L. Tucker (with permission)
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LAUREN RIES and SERENA ALGOZER

[PROPOSED] ORDER

Pursuant to the stipulation of the Parties, and good cause appearing therefor,

IT IS SO ORDERED.

DATED: August 23, 2010



THE HONORABLE JEREMY FOGEL
UNITED STATES DISTRICT JUDGE